

## **OFFICE OF POLICY, CONDUCT AND CONSUMER ASSISTANCE (OPCCA)**

### **Conduct Review & Securities Division**

#### **MISSION**

The Conduct Review and Securities Division was formed in 2002 by merging the Conduct Review Division, Securities & Insurance Offerings Division, and the Licensing Division. It includes two sections: 1) Market Conduct Exams & Investigations Section, and 2) Licensing Section. The division's mission is to maintain consumer confidence in the procedures and sellers of financial and insurance products and in the products themselves through licensure. It is also to protect Michigan consumers from a wide range of improper and unlawful practices under the statutes, codes, and related laws that it regulates. These activities are governed by the following Michigan statutes:

- Consumer Financial Services Act
- Consumer Mortgage Protection Act
- Credit Card Arrangements Act
- Credit Reform Act
- Debt Management Act
- Insurance Code
- Living Care Disclosure Act
- Mortgage and Home Improvement Lending Practices Act
- Mortgage Brokers, Lenders, and Servicers Licensing Act
- Motor Vehicle Sales Finance Act
- Regulatory Loan Act
- Sale of Checks Act
- Secondary Mortgage Loan Act
- Uniform Securities Act

#### **Market Conduct Exams and Investigations Section**

Performs targeted market conduct reviews, examinations, and investigations of insurers, consumer lenders, and securities broker-dealers and their sales agents to ensure that they operate safely, responsibly and in compliance with applicable law. Other responsibilities include initiating enforcement actions against licensees and registrants based on the results of examinations and investigations; and analyzing information gathered through mandated filings of annual reports and financial statements by non-depository licensees and registrants.

#### **Licensing Section**

The Licensing Section consists of two units: the Qualifications Assessment Unit and the Product Review Unit. The Qualifications Assessment Unit is responsible for the examination

and licensure of all insurance agents and insurance-related practitioners, collection of license-related fees, and maintenance of license records. In 2002, all licensing examinations were administered by a private contractor, Promissor, Inc. The Product Review Unit is responsible for reviewing products companies wish to sell in Michigan. The section's goal is to protect consumers by ensuring that insurance rates and contracts, security offerings, and living care contracts comply with state law. The authority for performing these functions rests with the Michigan Uniform Securities Act, Michigan Insurance Code, the Debt Management Act, and the Living Care Disclosure Act.

Under the Uniform Securities Act, any investment security must be registered or found exempt prior to its offering or sale in Michigan. As a merit review state, Michigan subjects offerings to review for the adequacy of disclosure and the fairness of the offering.

The Living Care Disclosure Act requires registration of facilities offering life care contracts. Advertising and disclosure material given to prospective purchasers is reviewed for completeness and accuracy. During the initial and annual registration renewal process, facilities must also be found to be financially viable.

The Michigan Insurance Code contains extensive provisions regulating insurance contracts and rates. In addition to specific provisions for particular types of insurance, insurance contracts cannot contain inconsistent, ambiguous, or misleading clauses, and property and casualty rates must not be excessive, inadequate, or unfairly discriminatory.

## **MILESTONES**

- Performed a comprehensive review of the controversial issue of insurance companies using credit history to set rates. This issue involved staff from various OFIS divisions to cover aspects such as surveying insurance companies, facilitating six public hearings, soliciting and analyzing comments, and drafting a report to the Legislature.
- Laid groundwork to increase efficiency and reduce costs through the use of technology. Began the process of converting from paper filings to electronically received filings, of a majority of the approximately 16,000 annual mutual fund notice filings received. Along with receiving the filings electronically, the fees received of approximately \$10 million will be received by electronic fund transfer instead of by check.
- Issued Notices of Opportunity to Show Compliance (NOSCs) regarding violations of law as a result of examinations conducted.
- Suspended insurance agent's license quickly (within 10 days of beginning case) as a result of an agent's alleged failure to remit consumers' policy payments to insurance companies.
- Planned and conducted an examination of the largest mortgage licensee servicer doing business in Michigan.

- Examined a large nationwide company in response to numerous consumer complaints alleging predatory practices in its lending and credit insurance marketing and practices. Examination findings resulted in participation from 20 states that began the negotiations that resulted in a multi-state settlement with the company.
- Implemented the Producer Licensing Model Act (PLMA), which was signed into Michigan law on January 2, 2002, that aligned Michigan's insurance licensing requirements with national standards. This required revising forms, processes, procedures, and upgrading the OFIS agent licensing system to comply with the changes in statute.
- Introduced the Online Insurance Agent Application.
- Resident and non-resident insurance applications can be submitted electronically.
- Introduced the FIS 0220 and FIS 0202, which are based upon the NAIC Uniform Applications.
- Introduced on line Insurance Agent/Agency Producer Databases, which provide the public the ability to locate insurance agents by company, and then access the individual and agency histories.
- Instituted electronic submission of company appointments and cancellations.
- Introduced four new examinations/lines of authority: Property, Casualty, Credit Products, and Personal Lines.
- Repealed the necessity of licensing Administrative Services Managers.
- Individual licenses may be issued without first obtaining a company appointment.
- Paper letters of certification or clearance are no longer required, as we access the National Insurance Producers Registry (NIPR) database to verify licensure.
- The licensing staff participated with programmers to upgrade the insurance licensing database to support the Producer Licensing Model Act (PLMA) new legislation.
- Michigan co-chairs the NAIC Coordinated Advertising, Rate, and Form Review Authority (CARFRA) working group. Instead of filing with each state in which an insurance company wishes to sell a product, CARFRA provides a single filing and review by participating states for compliance with national standards. Compliance with state deviations from national standards, if any, is also reviewed. During 2002, CARFRA adopted national standards for one new product, expanded membership participation from 10 to 22 states, and successfully reviewed a multi-state electronic filing in fewer than 30 days.

- During 2002, filings reviewed electronically increased dramatically via the NAIC SERFF system (System for Electronic Rate and Form Filings), thus increasing proficiency for the benefit of insurers who file with OFIS. OFIS continues to encourage insurers to move to electronic filings to increase the timeliness and efficiency of insurance filings.
- The division worked with the Department of Community Health and the Family Independence Agency to alert the industry and the public about unacceptable marketing practices for “Medicaid Friendly Annuities” by some life insurance companies. Also, the division issued bulletin 2002-06-INS to provide direction to the industry.
- The division worked with computer programmers to allow more detailed Medicare supplement information to be added to our database and web site, so consumers and the industry have better information to compare Medicare Supplement plans. In addition, the Conduct Review and Securities division staff worked with the Policy Division to support legislation that brought Michigan into compliance with federal Medicare supplement requirements.
- The Product Review Unit was instrumental in surveying companies for credit scoring information and developing recommendations for the commissioner to consider when issuing the December 2002 Credit Scoring Report, Order No. 03-005-M, and Bulletin 2003-01-INS.
- The division faced the challenge of personnel losses that required staff to take on additional workloads and responsibilities, and managed to provide timely review of the products filed with the office.

#### **ACTIVITY SUMMARY**

The Division conducted examinations and investigations in 2002 under all consumer finance statutes except the Credit Card Arrangements Act and the Sale of Checks Act.

Staff strives to efficiently utilize limited resources to effectively supervise an ever-increasing population of non-depository licensees and registrants. During 2002, the division conducted examinations of large consumer financial services licensees, and also used limited-scope examinations to target companies of various sizes that reportedly had been conducting unauthorized activities. The division continued using off-site examinations to more effectively supervise institutions which do not have a physical presence within Michigan and which had a limited amount of activity in this state.

In 2002 the division initiated enforcement action against 63 licensees and registrants under the Mortgage Brokers, Lenders and Servicers Licensing Act, the Secondary Mortgage Loan Act, and the Consumer Financial Services Act for examination-related issues and failure to file annual reports and financial statements.

The following improvements were made in the area of consumer finance licensees’ filings of annual reports and financial statements: Information-gathering was enhanced by printing

licensee-specific information which was reviewed by licensees and corrections made where appropriate; warning letters were sent to non-filers which resulted in more licensees coming into compliance with statutory filing requirements; and financial statement review was reorganized to reduce staff resources and time required, and to better manage the review process and its results.

Staff conducts investigations of allegations of violations of the Insurance Code, the Securities Act, and related laws. If further action appears necessary, the division takes enforcement action which includes assessments for civil penalties and market conduct fees, suspension, or revocation of licenses, and entering orders of restitution from insurance licensees. Staff also assists with enforcement action against other licensees such as mortgage companies.

This past year, staff worked with the U.S. Attorney's office, the Federal Bureau of Investigation, the Securities and Exchange Commission, the National Association of Securities Dealers Regulation, and the U.S. Postal Inspectors Office.

OFIS has sole regulatory authority over more than 523 investment advisors.

When staff members conduct web site reviews, they concentrate on consumer compliance issues as well as site functionality, ownership and security. The site review discloses to management areas where there are potential legal, operational, strategic and/or reputation risks. Staff conducted 64 web site reviews in 2002. OFIS enforcement reports can be found at: [http://www.michigan.gov/cis/0,1607,7-154-10555\\_13047\\_19219---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_13047_19219---,00.html)

### **Investigation and Enforcement Activity Summary:**

#### Investigations

Completed investigations	243
Investigations forwarded to Enforcement Section	36
Amount of financial recoveries	\$849,444

#### Enforcement

Files closed	148
Licenses suspended or revoked	17
Civil penalties and market conduct fees	\$346,569
Orders of restitution entered	2

#### Bad Address Cases

Files closed	19
Licenses suspended or revoked	9
Market conduct fees assessed	\$1,109

<b>Insurance Licensing Activity Summary:</b>	<b><u>Individual</u></b>	<b><u>Agency</u></b>
Applications Received	25,465	1940
Examinations administered (by Promissor)	22,527	
Licensure candidates examined (by Promissor)	18,860	
Provider reported credit hours	434,826	
New licenses issued	18,601	1,409
Other Licenses activated	3,909	652
Notices of appointment processed	170,313	14,599
Cancellation processed	105,579	10,579
Address changes processed	9,911	544
Clearances processed	440	
Certifications processed	15,368	1,128
Duplicate licenses processed	4,438	618
Names changes processed	999	141
Renewal fees collected	\$3,902,640.16	
Other licensing related fees collected	\$214,740.00	

**Insurance Licensees in Active Status as of December 31, 2002:**

<b><u>License Type</u></b>	<b><u>Individual</u></b>	<b><u>Agency</u></b>	<b><u>Other</u></b>
Resident Agent	45, 921	5,900	
Solicitor	2,173	---	
Nonresident Agent	56,452	5,112	
Surplus Lines Agent	294	125	
Adjuster for the Insured	170	---	
Insurance Adjuster	2,030	---	
Insurance Counselor	1,277	---	
Administrative Service Manager (no longer cert.)	295	---	
Third Party Administrator	---	---	293
Fraternal Agent	66	---	
Risk Retention Agent (now surplus lines-NR)	83	12	

**Insurance Education Program Activity Summary:**

<b><u>Prelicensing Education</u></b>	
New Courses approved	15
Total number of approved courses	51
New course providers approved	0
Total number of approved providers	24

#### Continuing Education

New courses approved	1,208
Total number of approved courses	3,053
New course providers approved	37
Total number of approved providers	273
Provider annual renewals sent	262
Number of disciplinary actions against providers	15

#### **Surplus Lines Activity Summary:**

Surplus lines premium tax receipts totaled \$11,505,798.48 for the calendar year 2002. Of that amount collected \$8,809,397.43 was from surplus lines agents and agencies, \$2,214,309.88 was from insured and purchasing groups through direct placements, and \$482,091.17 was from risk retention groups. Surplus lines taxes were based on total premium of \$465,367,753.47 (\$352,382,848.67 from surplus lines agents and agencies, \$88,625,800.72 from direct placements and \$24,359,104.08 from risk retention groups).

#### **Consumer Lending Licenses Activity Summary:**

##### Consumer Financial Services Act

The Consumer Financial Services Act, 1988 PA 161, as amended, provides for the licensing and regulation of institutions which provide a variety of financial services, and eliminates the need for an institution to acquire a separate license for each activity. A "Class II" license authorizes services under the Regulatory Loan Act, Motor Vehicle Sales Finance Act, Secondary Mortgage Loan Act (exception: secondary mortgage servicing), and Credit Card Act. A "Class I" license authorizes services under the Sale of Checks Act, secondary mortgage servicing under the Secondary Mortgage Loan Act, Mortgage Brokers, Lenders, and Servicers Licensing Act in addition to the authorities provided under a Class II license.

A Class I license requires a bond or letter of credit of \$1,000,000 and a minimum net worth of \$100,000. A Class II license requires a bond or letter of credit of \$500,000 and a minimum net worth of \$50,000. If a licensee engages in credit card activities, a minimum net worth of \$1,000,000 is required.

At year-end 2002, there were 19 licensees holding a Class I license and five licensees holding a Class II license, as compared to 20 Class I licensees and six Class II licensees at December 31, 2001.

##### Credit Card Arrangements Act

The Credit Card Arrangements Act, 1984 PA 379, as amended, authorizes the licensing and regulation of non-depository issuers of credit cards. A minimum net worth of \$1,000,000 is required by the act; however, the commissioner may establish a higher net worth requirement if it is necessary to assure a safe and sound operation. There are no bonding requirements.

Four companies were licensed under the act as of December 31, 2002, as compared to four as of December 31, 2001.

#### Mortgage Brokers, Lenders, and Servicers Licensing Act

The Mortgage Brokers, Lenders, and Servicers Licensing Act, 1987 PA 173, as amended, provides for licensing, registration, and regulation of mortgage brokers, mortgage lenders, and mortgage servicers. The act pertains to loans secured by first mortgages or land contracts covering real property located in the state of Michigan, which is used, or improved to be used, as a dwelling and designed for occupancy by four or fewer families. Licensees are typically required to have a minimum net worth ranging from \$25,000 to \$100,000 and must generally post a bond, letter of credit, or certificate of deposit in amounts ranging from \$25,000 to \$125,000. Net worth and bonding requirements are dependent upon the type of services being offered.

There were 1,874 licensees and 238 registrants at year-end 2002. This compares to 1,677 licensees and 253 registrants as of December 31, 2001.

#### Motor Vehicle Sales Finance Act

The Motor Vehicle Sales Finance Act, 1950 PA 27, as amended, regulates certain installment sales of motor vehicles. It provides for licensing and regulation of both the installment sellers, who are motor vehicle dealers originating installment sales contracts, and sales finance companies, the financial institutions that purchase these contracts from the dealers. The act requires bonding of sales finance companies ranging from \$5,000 to \$20,000 for main offices, plus \$10,000 for each branch office. Installment sellers do not have a bonding requirement. The act imposes no net worth requirements on installment sellers and sales finance companies.

As of December 31, 2002, there were 2,018 motor vehicle dealers licensed as installment sellers, as compared to 2,076 at year-end 2001. There were 820 sales finance companies (including depository financial institutions) at the end of 2002, as compared to 794 at year-end 2001.

#### Regulatory Loan Act

The Regulatory Loan Act, 1963 PA 103, as amended (successor to 1921 PA 317, the Small Loan Act), authorizes the licensing and regulation of entities, which make personal loans to consumers. The act prohibits the use of real estate as security for these loans. There is no bonding requirement; however, licensees are required to maintain a minimum net worth of \$100,000.

There were 30 licensees at year-end 2002, as compared to 37 on December 31, 2001.

#### Sale of Checks Act

The Sale of Checks Act, 1960 PA 136, as amended, authorizes the licensing and regulation of the business of selling and issuing travelers checks, drafts, and money orders as a service or for a fee. The act also regulates telegraph companies, which transfer funds by wire. The act requires a \$100,000 minimum net worth and a minimum bond of \$100,000 plus \$3,000 for each agent up to a maximum of \$250,000.

There were 17 sale of checks licensees at year-end 2002, as compared to 18 at year-end 2001.



### Secondary Mortgage Loan Act

The Secondary Mortgage Loan Act, 1981 PA 125, as amended, authorizes the licensing, registration, and regulation of entities which make secondary mortgage loans for personal, family, or household purposes. The act also allows for loans secured by other collateral in addition to real property. Licensees are typically required to have a net worth ranging from \$25,000 to \$100,000 and must generally post a bond or letter of credit in an amount ranging from \$25,000 to \$125,000, depending on the type of services being offered.

There were 12 licensees and 731 registrants under the act as of December 31, 2002, compared to 14 licensees and 622 registrants at year-end 2001.

### Consumer Lending Licensing

During the year, Consumer Finance staff processed 917 new license and registration applications. Overall, the number of licensees and registrants under the seven consumer finance programs increased in 2002, as it has in each of the past several years, and totaled 5,768 at December 31, 2002.

The most significant increase in population came in the first and second mortgage programs, which grew 11% over the course of the year. With a forecast of slightly higher mortgage interest rates in 2003, we do not expect to see increased activity in mortgage refinancings, and expect a steady volume or even level of license application filings.

### **Licensees as of December 31, 2002:**

#### *Consumer Financial Services Act*

Number of Class I licensees	19
Number of Class II licensees	5

#### *Credit Card Arrangements Act*

Number of licensees	4
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#### *Mortgage Brokers, Lenders, and Servicers Licensing Act*

Number of licensees	1,874
Number of registrants	238

#### *Motor Vehicle Sales Finance Act*

Number of sales finance licensees	820
Number of installment seller licensees	2,018

#### *Regulatory Loan Act*

Number of licensees	30
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#### *Sale of Checks Acts*

Number of licensees	17
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*Secondary Mortgage Loan Act*

Number of licensees	12
Number of registrants	731

**Securities Licenses Activity Summary:**

As of December 31, 2002, there were 50 active debt management licenses (this includes 14 debt management firms and 36 branches), 102,208 registered securities agents, 2,031 registered broker-dealer firms, 12 non-NASD broker-dealer firms, 485 state-registered investment adviser firms, 29 investment advisor finder firms, and 903 federally covered investment adviser notice filers.

**Product Review Activity Summary:**

During 2002, the Division received the following number and types of filings:

<u>Type</u>	<u>Number of Filings</u>
Life and health insurance filings:	1,161
Property and casualty insurance filings:	5,671
Investment company notice filings:	14,552
Securities exemption applications:	153
Securities registration applications:	103
Small company offering registrations (SCOR):	1
Uniform limited offering exemption (ULOE) filings:	1,011

Four new living care facilities were registered in 2002. At the end of the year, there were 22 facilities registered in Michigan.



## Consumer Services Division

### **MISSION**

The Consumer Services Division is responsible for the majority of internal and external communications for OFIS and encompasses the operations for two physical locations from which OFIS staff work. Our goal is to provide a consistent, accurate message throughout all OFIS communication, whether written or oral, internal or external, while providing OFIS customers with excellent customer service. This division is comprised of four separate units: Communication Center, Consumer Assistance Section, Communications Section, and Administrative Support.

#### Communication Center

Staff assigned to the Communication Center serve as the initial contact for persons telephoning OFIS and strives to provide personal service on each and every call. The six member staff of the Communication Center answer, screen, respond to and route incoming telephone calls, perform reception duties for visitors and direct general correspondence to the appropriate OFIS staff or unit. The Center retrieves data from various data sources to answer questions and supply information to interested parties.

#### Consumer Assistance Section

The Consumer Assistance staff assist consumers who have experienced difficulties or who have questions regarding financial and insurance services or products. The Consumer Assistance staff strives to ensure that every customer receives a thorough and fair review of their complaint, in accordance with statute, and that each and every consumer fully understands the final outcome. The Consumer Assistance Section is responsible for conducting informal reviews required under the Essential Insurance Act (EIA).

#### Communications Section

Staff assigned to this section manages the flow of information released to the public, serves as the first point of contact for the media and manages the content of two OFIS web sites. The Communications Coordinator serves as the liaison to the department and other agencies, whether state or federal, on all communication matters, and coordinates public appearances and speeches on behalf of the Commissioner and OFIS staff. All print material, publications and forms, is generated through this division. A total of 720 media contacts were recorded in 2002.

#### Administrative Support

Administration of various support activities and special projects relating to the daily operation of OFIS is provided by staff of this section. Complying with internal audit reporting requirements, facilities management, mail distribution services, telecommunications, recycling and ergonomics are the responsibility of this section.

## **MILESTONES**

- Completed and launched the OFIS web site taxonomy/migration of the CIS web site to e-Michigan standards.
- Consolidated OFIS complaint functions so that the Consumer Services Section assumed responsibility for handling all insurance, consumer finance, securities, bank and trust, and credit union complaints.
- In July, 2002 began posting the Health Maintenance Organizations (HMO) quarterly financial filings on the OFIS web site.
- In 2002, OFIS developed or revised approximately 40 of its business forms. An on line insurance producer application form was developed in 2002, and implemented shortly after the first of the year. The form enables most applicants to file on line, eliminating delays for mail. The on line producer application features a number of realtime edit checks designed to eliminate errors that might cause delays or rejection of paper applications.
- In 2002, OFIS began a modular forms initiative to begin standardizing license application forms by function. This ongoing project will produce the first group of modular forms expected to be implemented in the second quarter of 2003.
- OFIS published two new Insurance Counselor consumer information sheets and revised informational publications about viatical settlements and filing financial institution complaints.
- Scheduled, coordinated, and conducted six public hearings throughout the state on the use of credit scoring, resulting in the issuance of the commissioner's report in December to the Governor and Legislature.

The OFIS web site contains a consumer services section at [http://www.michigan.gov/cis/0,1607,7-154-10555\\_12902---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_12902---,00.html), including complaint information.

## **ACTIVITY SUMMARY**

During 2002, the sections of the Consumer Services Division performed the following:

### *Communication Center:*

Number of calls handled (1/1/02 to 12/31/02).....190,970

Number of calls on the toll free line (1/1/02 to 12/31/02) ....109,202

**Communication Center Statistics 1/1/02 to 12/31/02**

	<u>Total Calls in Queue</u>	<u>Calls Routed w/in 3 min.</u>	<u>Calls Routed w/in 15 sec.</u>	<u>Avg. Speed of Answer</u>	<u>% of Calls Held for Staff</u>	<u>% of Calls Abandoned</u>	<u>Calls Rec'd on Toll Free Line</u>
Jan.	17,339	16,451 or 95%	9,777 or 56%	41 sec.	94%	6%	8,965
Feb.	15,731	5,364 or 97%	9,539 or 60%	32 sec.	95%	5%	8,181
Mar.	16,796	16,396 or 98%	10,800 or 64%	28 sec.	95%	5%	8,698
April	16,747	16,446 or 98%	11,493 or 69%	25 sec.	96%	4%	8,686
May	16,853	16,678 or 99%	11,986 or 71%	20 sec.	96%	4%	8,618
June	15,058	14,696 or 98%	9,111 or 61%	31 sec.	95%	5%	7,866
July	16,461	16,060 or 98%	11,337 or 69%	26 sec.	96%	4%	8,452
Aug.	16,099	14,901 or 93%	8,150 or 51%	50 sec.	94%	6%	8,905
Sept.	14,865	14,005 or 94%	7,810 or 53%	45 sec.	94%	6%	8,522
Oct.	20,412	19,490 or 95%	10,947 or 54%	41 sec.	95%	5%	16,482
Nov.	12,674	12,042 or 95%	7,047 or 56%	41 sec.	93%	7%	8,375
Dec.	11,935	12,765 or 93%	6,276 or 53%	48 sec.	93%	7%	7,452

*Consumer Services Section:*

Consumer Complaints

General.....	3,325
Essential Insurance Act.....	104
Worker's Compensation .....	20
Non-Depository (mortgages/sales finance/motor vehicle) .....	964
Bank and Trust.....	55*
Credit Union.....	21*
Securities.....	168
Total consumer complaint files initiated.....	4,657
Rapid Response Files (insurance only).....	192
Written inquiries answered .....	965
Personal consumer conference conducted .....	90
Activities on existing files (insurance only) .....	6,776
Files closed during the year (insurance only) .....	4,363
Files referred to Conduct Review Division .....	276
Dollar amount of documented reimbursements.....	\$7,311,641.10

*Essential Insurance Act:*

Informal reviews held .....	1
Decisions completed .....	1
Reviews cancelled before decision .....	0

(\*Consumer Services Division began handling Bank & Trust and Credit Union complaints in September 2002. Total complaint numbers for each type were 215 and 83 respectively).



## Health Plans Division

### MISSION

The Health Plans Division is responsible for the non-financial regulation of health plans required under Public Act 350 of 1980 and Chapter 35 of the Insurance Code through examination and investigation of rates, benefit contracts, and provider contracts used by prepaid health plans. These include Blue Cross Blue Shield of Michigan (BCBSM), health maintenance organizations (HMOs), and alternative health care financing and delivery systems (AFDS). Division staff makes sure that rates are fair, reasonable in relation to benefits, and that they comply with statutory standards. Benefit certificates are examined to assure that the coverage meets the criteria established in the statute and to determine if the certificates clearly set forth the coverage being provided. BCBSM's provider contracts and reimbursement arrangements are evaluated against the statutory goals of access, quality, and cost of health care services. Provider contracts for HMOs are evaluated to be sure that they meet statutory standards and allow an HMO to remain financially strong and to guarantee high quality health services to its enrollees. The section also regulates rates and forms issued by Multiple Employer Welfare Arrangements (MEWAs) under Chapter 70 of the Insurance Code. The MEWA is a means by which an established association or group of employers in the same or similar industries can form a self-insurance pool to provide health benefits to employees and their families.

In addition, Health Plans Division staff responds to inquiries on benefits and other health related issues and also administers the external appeals program under the Patient's Right to Independent Review Act (PRIRA) for subscribers of health plans. The Health Plans Division also administers a timely claims payment program under Public Act 187 of 2000 for providers of services to Medicaid health plan contractors.

### MILESTONES

- During 2002, the Health Plans Division handled 418 cases filed under PRIRA. Benefit Inquiry Staff handled more than 1,000 additional complaints.
- Public Act 249 of 2000 requires OFIS to produce an annual HMO consumer guide. The 2002 guide is complete and is available both in hard copy by request and through the OFIS web site at [www.michigan.gov/cis/0,1607,7-154-10555\\_13222\\_13224-34152--,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_13222_13224-34152--,00.html)

### ACTIVITY SUMMARY

#### **Benefit Inquiry Section Activity Summary:**

New Consumer Complaints Received:  
Blue Cross/Blue Shield of Michigan

647

Health Maintenance Organizations	398
Alternative Finance and Delivery Systems	7
Delta Dental/MI Dental Plan	15
Closing Actions on Files	890

**PRIRA External Reviews:**

Blue Cross/Blue Shield of Michigan

External Reviews Accepted Non-Medical	62
External Reviews Accepted Medical	149
Expedited External Reviews Accepted	0
External Review Requests Not Accepted	38
External Review Requests Not Complete	17
Orders (Decisions) Issued	83
Adverse Determinations Reversed before Decisions	76

Health Maintenance Organizations

External Reviews Accepted Non-Medical	62
External Reviews Accepted Medical	68
Expedited External Reviews Accepted	4
External Review Requests Not Accepted	78
External Review Requests Not Complete	17
Orders (Decisions) Issued	64
Adverse Determinations Reversed before Decisions	18

Alternative Finance and Delivery Systems

External Reviews Accepted Non-Medical	4
External Reviews Accepted Medical	1
Expedited External Reviews Accepted	0
External Review Requests Not Accepted	3
External Review Requests Not Complete	0
Orders (Decisions) Issued	5
Adverse Determinations Reversed before Decisions	0

Commercial Insurers

External Reviews Accepted Non-Medical	30
External Reviews Accepted Medical	30
Expedited External Reviews Accepted	0
External Review Requests Not Accepted	51
External Review Requests Not Complete	7
Orders (Decisions) Issued	50
Adverse Determinations Reversed before Decisions	4

**Dollar Amounts of Recoveries**

**Documented for HMOs, AFDS, and BCBSM only: \$1,951,947**

OFIS Health Plan Division's information can be found throughout the OFIS web site at [www.michigan.gov/ofis](http://www.michigan.gov/ofis). A few highlights are:

- A direct link to the “Who We Regulate” section of the web site – [http://www.michigan.gov/cis/0,1607,7-154-10555\\_13251\\_13262---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_13251_13262---,00.html). This section of the OFIS web site includes HMO open enrollment and Medicare HMO lists.
- A direct link to the “Frequently Asked Questions” or FAQ’s section of the web site – [http://www.michigan.gov/cis/0,1607,7-154-10555\\_13648---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_13648---,00.html). This section of the OFIS web site includes FAQs on health plans, preferred provider organizations, licensure of managed health care plans, mandatory health coverage, and self funded health care plans.
- A direct link to a listing of guides that OFIS has available – [http://www.michigan.gov/cis/0,1607,7-154-10555\\_13222\\_13224---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_13222_13224---,00.html). This section of the OFIS web site includes health insurance information and the annual OFIS HMO Guide.
- A direct link to the consumer section of the OFIS web site – [http://www.michigan.gov/cis/0,1607,7-154-10555\\_12902---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_12902---,00.html). This section includes all information for consumers that need information about complaints or would like to file a complaint.





## Policy Division

### **MISSION**

The Policy Division is responsible for managing the development and implementation of OFIS's legal, legislative and regulatory agendas. The Policy Division provides support to OFIS in the areas of research, analysis, and public policy development. The Division promulgates rules, analyzes legislation, drafts proposals for legislation, and compiles and disseminates information on current issues facing the financial services industry, consumers of that industry, and federal and state regulators. Division staff assist regulatory units with development of enforcement actions and interpretations of state law.

The division serves as liaison between the governor's office, the legislature and OFIS to coordinate OFIS's legislative agenda. The division also monitors and analyzes proposed legislation that affects the financial services industry. The division prepares legislative analyses and provides assistance to the governor's Legislative Affairs staff and other executive department staff as necessary. Division staff work with legislators to resolve their constituent's financial services industry problems and responds to a myriad of concerns of the legislature. The division also serves as liaison between the United States Congress and OFIS to monitor and analyze federal legislation that affects the financial services industry. When requested, division staff also work with national and state trade organizations and associations to develop coordinated analyses or information. Division staff also provide lobbying support for the OFIS.

The Policy Division also conducts research, gathers data and identifies trends in order to develop public policy recommendations consistent with the governor's administrative goals and that is responsive to the needs of the financial services industry and consumers. Division employees strive to educate themselves in order to remain current with trends in financial services regulation.

The division includes legal staff who provide legal advice to the commissioner and other OFIS employees. OFIS attorneys draft and review proposed rules, legislation, final orders, and other legal memoranda. The division also coordinates Freedom of Information Act requests. The division serves as the main intermediary with the staff at the attorney general's office. Additionally, the division provides a myriad of services to OFIS staff relating to research, analysis and writing; including, but not limited to, bulletins, rules, legislation, statutory and other reports.

### **MILESTONES**

- Tracked 326 bills that were introduced into the Michigan Legislature in 2001-02. The Policy Division performs this task to help OFIS stay apprised of possible changing legislation that may impact the businesses regulated by OFIS. The division also keeps

track of various federal legislation and regulatory efforts that may impact those businesses.

- Placed the annual auto survey and guide that was prepared by the Policy Division, on the OFIS web site, in April 2002.
- Participated in the development of an invaluable reference tool that will help OFIS cope with the complex issues created by the Health Insurance Portability and Accountability Act (HIPAA) privacy regulation, which is applicable to all covered entities in Michigan (i.e. commercial health insurers, all HMOs, and Blue Cross Blue Shield of Michigan). The Policy Division represented OFIS on the State Bar Health Care Law Section HIPAA Privacy Task Force. The Task Force devoted most of this year to preparing a 240-page preemption matrix comparing hundreds of Michigan laws, rules, and attorney general opinions to the comparable HIPAA privacy provision to determine whether federal or state law controls on various issues. This involved research, reviewing drafts, preparing matrix entries, and participation in 2-3 hour conferences calls every two weeks into the fourth quarter.
- Finalized and posted home insurance survey responses on the OFIS web site received during April 2002.
- In 2002, the division facilitated the enactment of amendments to the Consumer Financial Services Licensing Act, the Mortgage Brokers, Lenders and Servicers Licensing Act, the Secondary Mortgage Loan Act, the Regulatory Loan Act of 1963, and the Sale of Checks Act to allow the Commissioner to bar persons who engage in fraud from being involved in any way in these businesses.

## **ACTIVITY SUMMARY**

### **Public Acts of 2002**

<u>Act #</u>	<u>Effective Date</u>	<u>Description</u>
2002 PA 4	02-07-02	Clarifies duties of residential mortgage originator regarding receipt of fees from entities other than employer
2002 PA 26	03-06-02	Revises service of process procedures
2002 PA 32	03-07-02	Eliminates requirement that commissioner obtain approval of a circuit court judge before issuing a subpoena in certain cases
2002 PA 37	03-07-02	Eliminates mandatory exams of rating organizations
2002 PA 38	03-07-02	Revises reference to department of transportation as certifier of buses
2002 PA 74	03-15-02	Eliminates requirement that TPAs have licensed resident administrative service manager
2002 PA 77	03-21-02	Revises to make recent changes to provisions relating to interest on judgment on a written instrument evidencing indebtedness that bears an interest rate prospective and provide mechanism for

2002 PA 131	04-22-02	fixing rate when instrument bears a variable interest rate New Chapter in Penal Code on Acts of Terrorism
2002 PA 142	05-01-02	Criminal procedure; forfeiture; seizure and forfeiture of property used in connection with a terrorism-related offense; provide for
2002 PA 146	04-02-02	Clarifies who can sell excess loss insurance
2002 PA 183	05-01-02	Requires duplicate filing of transaction report with State Police
2002 PA 184	05-01-02	Requires duplicate filing of transaction report with State Police
2002 PA 185	05-01-02	Requires duplicate filing of transaction report with State Police
2002 PA 228	03-01-02	Producer Licensing Model Act
2002 PA 247	05-01-02	Requires duplicate filing of transaction report with State Police
2002 PA 251	05-01-02	Allows MAIPF to surcharge for certain driving-related violations
2002 PA 263	05-01-02	Allows state-chartered savings banks to restructure to a mutually-owned holding company
2002 PA 304	05-10-02	Provides for health maintenance organizations deductibles and quality assurance assessment fee and Medicare supplement policy changes
2002 PA 316	10-01-02	Amends insurance code to require timely payment of claims
2002 PA 317	10-01-02	Amends PA 350 to require timely payment of claims
2002 PA 323	05-23-02	Repeals act relating to the marking of "fake" bank bills
2002 PA 325	05-23-02	Raises the maximum allowable contract amount for a fully paid guaranteed price contract entered into by an applicant for or recipient of assistance under the Social Welfare Act
2002 PA 359	05-23-02	Modifies priority of claims distribution
2002 PA 390	05-30-02	Prohibits individuals who committed fraud from being licensed
2002 PA 391	05-30-02	Prohibits individuals who committed fraud from being licensed
2002 PA 392	05-30-02	Prohibits individuals who committed fraud from being licensed
2002 PA 393	05-30-02	Prohibits individuals who committed fraud from being licensed
2002 PA 394	05-30-02	Prohibits individuals who committed fraud from being licensed
2002 PA 462	06-21-02	Amends Chapter 9, the investment provisions to, among other things, clarify investments in derivatives
2002 PA 492	03-31-03	Amends certain eligibility provisions in the Essential Insurance Act and require HO-3 at Michigan Basic
2002 PA 538	01-22-03	Provides for off-label drug use under certain circumstances
2002 PA 539	01-22-03	Provides for off-label drug use under certain circumstances
2002 PA 559	09-27-02	Provides for Medicare supplement policy changes and prohibits BCBSM from doing anything to change its nonprofit status or to sell, convey, transfer or dissolve.

2002 PA 599	12-16-02	Scope of practice of Optometrists
2002 PA 600	12-16-02	Revises definition of review entity as it relates to the disclosure of certain health information
2002 PA 612	03-31-03	Creates do not call register
2002 PA 613	12-20-02	Revisions regarding telephone solicitation sales [companion to HB 4042]
2002 PA 621	12-23-02	Revises workers' comp and commercial liability reports AND incorporates some HMO changes
2002 PA 626	12-23-02	Requires procedure for the filing of certain notices
2002 PA 635	12-23-02	Revises minimum nonforfeiture rate for individual fixed annuity contracts
2002 PA 655	03-23-03	Enacts creditor placed insurance model
2002 PA 656	12-23-02	Revises citation in MAIPF premium surcharges
2002 PA 660	12-23-02	Regulates predatory lending practices
2002 PA 662	07-01-03	Creates historical vehicle classification in MCCA
2002 PA 664	03-31-03	Commercial Lines Deregulation and service of process for surety companies
2002 PA 684	12-30-02	Limits notices to be sent to OFIS for appointment or election of new officers and directors
2002 PA 692	03-31-03	Repeals annual affidavit under act
2002 PA 697	03-31-03	Limitation of PIP benefits to nonresidents
2002 PA 699	12-30-02	Increases document preparation fee
2002 PA 707	12-30-02	Revises internal grievance procedure for disability income insurers
2002 PA 708	01-01-03	Requires uniform prescription drug card
2002 PA 737	12-30-02	Exempts rental car companies and employees from licensure

**Issued during 2002:**

- OFIS bulletins and position statements can be found at: [http://www.michigan.gov/cis/0,1607,7-154-10555\\_12900---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_12900---,00.html)
- OFIS orders and rulings can be found at [http://www.michigan.gov/cis/0,1607,7-154-10555\\_20594---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10555_20594---,00.html)